Law Office of Nora A. Belanger, L.L.C
10 Wall Street
Norwalk, CT 06850
TEL (203) 854-8597
FAX (203) 854-5344

March 22, 2009

Re: Raised S.B. No. 1142, Session Year 2009

Dear Sen. Gaffey, Rep. Fleischmann, and the Education Committee members:

I am an attorney in Connecticut concentrating solely on special education and disability rights law, as well as a prior special education teacher. I am writing in opposition to Raised S.B. # 1142, Session Year 2009. Please accept this letter as testimony for my opposition of the Bill based on the fact that it will weaken rights of students with disabilities and severely restrict their access to an appropriate education. I will address each issue raised in this bill and note the grave impact it will have on students with disabilities in Connecticut. The bill is as follows:

AN ACT CONCERNING RELIEF OF STATE MANDATES ON SCHOOL DISTRICTS
To delay the implementation of the in-school suspension mandate until July 1, 2011; to change the date in which a teacher is notified that his or her contract will not be renewed from April first to May first; to require that providers of school readiness programs submit space allotment reports every other month; to establish that the burden of proof lies with the party requesting a special education hearing; to provide that a local or regional board of education's commitment to provide special education to a child terminates upon the child's twenty-first birthday; and to eliminate certain reporting requirements on local and regional boards of education.

Please remember that the purpose of special education is to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. The purpose of the federal law is not to find ways to cut costs on a global basis by changing the law so that the most vulnerable people in our society have a lesser chance of becoming educated so that they can achieve independence, have meaningful employment and participate in their communities. These decisions may have future ramifications that are detrimental not only to the lives and finances of families, but also to town and state budgets that have to provide down the road for individuals who have not been educated appropriately.

New suspension regulations must not be delayed. The vast majority of suspensions are trivial and suspension has not proven effective as a deterrent. When students with disabilities are suspended, it is often because there is not a proper behavior intervention plan in place with appropriate consequences. Suspension shifts the responsibility of school behavior and education to the parent. More disturbing is the fact that it denies students with disabilities, who need education the most, from participating in school and accessing their education on days when they are suspended.

Burden of Proof must not be changed. Connecticut must keep the burden of proof on the school district, the party who is obligated to provide a free and appropriate public education. The school district has control of the student's educational record and controls the flow of information between the school and the parents. If the burden of proof shifts it will allow the school districts to stop the communication and documentation that the parents require to make their case. The imbalance of power between the district and the parents supports placing the burden of proof with the school district based on the fundamental principles of fairness. Practically speaking, it is almost always the parents who initiate due process because the school district is unable or unwilling to provide the necessary services. A change in this law would place an onerous burden on families to prove that the program is not appropriate, and shifts the balance in an already unbalanced process.

Special education services must not terminate upon the student's twenty-first birthday. The Individuals with Disabilities Education Act 2004 does not prevent states from giving students with disabilities and their family's greater protection than the minimum protection that the federal law allows. Connecticut had decided that education for students with disabilities shall be continued until the end of the school year, in the event that the child turns twenty-one during that school year. Most transition programs are planned to run through a full school year, and it would be disruptive to the student to do otherwise. Furthermore, this appears to be a veiled attempt, not at fairness to students with disabilities, but to achieve a massive fiscal impact at the expense of these students.

Thank you for your consideration this point of view, which I believe represents that of my clients and fellow advocates of students with disabilities in Connecticut. I request that you do not delay in going forward with the in-school suspension rules, that the burden of proof remain with the school district, and that students with disabilities participate in services through the entire year of their 21st birthday.

Respectfully yours,

Nora A. Belanger, Esq.

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